

STATE OF NEW YORK
DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231-0001

GEORGE E. PATAKI
GOVERNOR

August 25, 2003

RANDY A. DANIELS
SECRETARY OF STATE

Steuben County Legislature
Office of the Clerk
County Office Building
3 East Pulteney Square
Bath, NY 14810-1510

RE: County of Steuben, Local Law 6, 2003, filed on 08/08/2003

Local Law No. SIX of the year 20 03

A local law PROHIBITING MOTORIZED VEHICLES IN COUNTY OWNED OR LEASED PARKS AND REFORESTATION LANDS, EXCEPT WHERE PERMITTED, AND IMPOSING A \$500 FINE FOR THE FIRST VIOLATION AND A \$1,000 FINE FOR ANY SUBSEQUENT VIOLATION OCCURRING WITHIN THREE YEARS, AND FOR THE FORFEITURE OF ANY MOTORIZED VEHICLE.

Be it enacted by the LEGISLATURE of the
(Name of Legislative Body)

County
~~XXX~~ of STEBEN as follows:
~~XXXX~~

SECTION 1: LEGISLATIVE INTENT

The County owns and leases real property for the recreation, enjoyment and welfare of the public. The County serves as steward of the environment for such facilities and has determined enhanced enforcement of existing laws and restriction of motorized vehicles in and on such property is necessary and desirable for the presentation of same. Operation of motorized vehicles in areas other than those designated for parking, stopping and operation must be prohibited. In an era where off-road motorized vehicles have become a past time for many, operation of same must be confined to permitted areas only. Use of motorized vehicles in areas of County owned or leased real property is injurious to the preservation of same and present environmental risks, which can pose injurious impact on County property and interfere with the greater public's use and enjoyment.

SECTION 2: DEFINITIONS

(a). "A motorized vehicle" is defined as a "motor vehicle" under VTL §125, "snowmobile" as defined by VTL §2221 and "all terrain vehicle" as defined by VTL §2281.

(b). "Commissioner" is defined as the Commissioner of Public Works.

SECTION 3: OPERATION OF MOTORIZED VEHICLES

No person shall operate a motorized vehicle on County owned or leased real property, waters or public lands other than a highway or such areas, roads and trails designed for access to and parking, standing or stopping at County owned or leased public lands.

SECTION 4: AUTHORIZATION FOR SPECIAL USE

The Commissioner of Public Works is hereby authorized to permit operation of motorized vehicles upon County owned or leased public lands upon written application and approval by him for public fairs, exhibits, festivals or gatherings deemed by him to be in the public interest. The Commissioner shall authorize such use on forms approved by him. The granting of such special use shall be filed with the Clerk of the Legislature.

SECTION 5: VIOLATIONS

Any violation of Section 3 hereof shall constitute an offense and may be punished by a fine not exceeding \$500 for the first offense and \$1,000 fine for a second or subsequent offense, or by imprisonment not exceeding thirty (30) days or by both said fine and imprisonment. In the alternative, the County Attorney of the County of Steuben is authorized to enforce said Section 3 by the initiation of a civil action in any Court having jurisdiction therein to recover a penalty not exceeding \$500 for the first offense and \$1,000 fine for a second or subsequent offense, said action shall be initiated in the name of the County of Steuben.

SECTION 6: POWERS AND DUTIES OF ENFORCEMENT OFFICERS

(a). All police officers and all peace officers, when acting pursuant to their special duties, shall enforce this law relating to operation of motorized vehicles. Appearance tickets shall be venued in the jurisdiction in which the motorized vehicle was operated in violation of this law.

(b). Such officers shall have the power and duty to seize as evidence without warrant any motorized vehicle whenever they have probable cause to believe it was operated in violation of this law.

SECTION 7: FORFEITURES

(a). If the defendant in any prosecution, civil or criminal, for a violation of Section 3, is held liable or found guilty, or shall effect a civil settlement of any action or cause of action in favor of the County arising out of such violation, the defendant's interest in all things seized as provided in paragraph b of subdivision 5 of this local law in connection with such violation shall be declared confiscated by and forfeit to the County of Steuben. Unless a claim of ownership by some other person is made to the Commissioner within thirty days after the date of seizure and is established by order of a court or to the satisfaction of the Commissioner, all such things shall be disposed of as the Commissioner shall direct.

(b). If the defendant in any prosecution, civil or criminal, for a violation involving the violation of Section 3 or found guilty, the ownership and right of possession thereof shall be deemed vested or revested in the County for all purposes, notwithstanding any claim of the defendant or of any other person to private ownership lawfully acquired prior to the act or possession constituting such violation, unless such claim shall be established or the operation of this subdivision shall be stayed by order of a court having jurisdiction of the prosecution or an appeal therefrom, or of the subject matter of the claim, before judgment in such prosecution is rendered. If any such claim is asserted by or on behalf of any person in the course of any such prosecution, the court in which the proceedings are had may make such order, or may stay the judgment for such time as he deems proper to permit determination of the claim or application for a stay of the operation of this subdivision.

(c). 1. For the purposes of this section, a claim of ownership shall mean any lawful interest, including a part interest or security interest.

2. A claim of ownership shall not prevent vesting or revesting of ownership and right of possession in the County unless the person establishing it either establishes a right of ownership exclusive of any interest in the defendant or shall purchase or redeem from the County any interest of the defendant by payment to the County of the value thereof together with the reasonable expenses of safekeeping of such property between the time of seizure and such redemption. Establishment of a claim of ownership shall not in any event prevent such revesting in the County, if the County shall establish that the illegal possession or transportation of which the defendant is held liable, or found guilty was expressly or impliedly permitted by the person establishing the claim of ownership.

3. Establishment of a claim of ownership consisting of a part ownership or a security interest shall not entitle the person establishing it to delivery of property as to which the interest of the defendant is declared confiscated or is forfeited as provided herein unless the person establishing it shall redeem any interest of the defendant by payment to the County of the value thereof together with the reasonable expenses of safekeeping of such property between the time of seizure and such redemption. Establishment of a claim of ownership shall not in any event entitle the person establishing it to delivery of the property if the County shall establish that the illegal use or possession of such property, in the manner or for the purposes or in the circumstances making such use or possession illegal, was expressly or impliedly permitted by the person establishing such claim of ownership.

4. Where a person establishing a claim of ownership is required to purchase or redeem any interest of the defendant in a civil or criminal prosecution in order to be entitled to delivery of property in which such claim of ownership is established, such interest of the defendant must be so purchased or redeemed not less than ten days after the price of purchase or redemption shall have been fixed by order of the court or agreed between the person whose claim is so established and the department. The Commissioner shall have power to enter into such agreement on behalf of the County. If a person establishing a claim of ownership shall fail to purchase or redeem the interest of the defendant within the time provided in this subdivision, or such longer time as may be provided by order of the court or agreement of the department, he shall be deemed to have abandoned his claim of ownership, and the property may be disposed of as if no such claim had been asserted.

(d). In payment of the price of redemption or purchase of the defendant's interest shall be deposited in the general fund of the County.

(e). A person asserting a claim of ownership as provided in this section shall have the burden of proof.

(f). In any action or proceeding in which any person asserts a claim of ownership with respect to property in which the interest of the defendant is declared confiscated and forfeited as provided herein, the testimony of such person, or of the defendant in the civil or criminal prosecution, or of both, shall not be deemed sufficient to establish his claim unless corroborated by documentary evidence or by testimony of some other person not interested in the event.

SECTION 8: EFFECTIVE DATE

This local law shall be effective upon passage.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. Six of 20 03 of the (County)(~~City~~)(~~Town~~)(~~Village~~) of Steuben was duly passed by the Legislature on 7/28 20 03, in accordance with the applicable provisions of law.
(Name of Legislative body)

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____.
(Name of Legislative Body)
(Elective Chief Executive Officer*)
Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority ~~of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

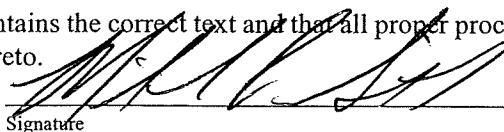
(Seal)

Date: August 1, 2003

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF STEUBEN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature

DEPUTY COUNTY ATTORNEY

Title

County
~~XXX~~ of STEUBEN

~~XXXX~~
~~XXXXXX~~

Date: August 1, 2003